

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

JOHN DOE,

Plaintiff,

v.

BAYLOR UNIVERSITY,

Defendant.

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Case No. 6:22-cv-001155-ADA-DTG

BAYLOR’S RESPONSE TO MOTION TO WITHDRAW AS COUNSEL

Defendant Baylor University (“Baylor”) files this response to the Motion to Withdraw as Counsel filed by the law firm of Nesenoff & Miltenberg, LLP, Dkt. 29:

On February 5, 2024, one of the firms representing Plaintiff, Nesenoff & Miltenberg, LLP, filed a Motion to Withdraw as Counsel for Plaintiff. Dkt. 29. The Motion notes Josh Borsellino of Borsellino, P.C., the other firm representing Plaintiff, also intended to file a Motion to Withdraw.

On January 30, 2024, counsel for Baylor, Colleen Murphey, had a phone call with one of the attorneys seeking withdrawal, Kristen Mohr, regarding Nesenoff & Miltenberg LLP’s proposed motion to withdraw. At that time, Baylor’s counsel explained that Baylor did not oppose the extension of deadlines sought in the motion, but that Baylor had to oppose the proposed motion to withdraw solely on the basis that it failed to comply with the requirement under Local Rule AT-3 to provide contact information for the Plaintiff or identify successor counsel.¹ Baylor’s counsel

¹In their Motion, counsel for Plaintiff represent that Baylor would not oppose the extension of deadlines sought in the Motion if the Motion were granted. To be clear, Baylor does not oppose the extension of deadlines even if this Court were not to grant the Motion, given the time needed to resolve this issue.

explained that in the event Plaintiff was not able to retain new counsel to represent him or chose to proceed *pro se*, Baylor would need the contact information required under Rule AT-3 to be able to serve Plaintiff with any filings or discovery. Likewise, the Court requires the same information to serve Plaintiff with any orders. Accordingly, Baylor's counsel suggested Nesenoff & Miltenberg LLP file its motion under seal, including the information required under Rule AT-3, and redact from the publicly available filing any personally identifying information of Plaintiff. Instead, Nesenoff & Miltenberg LLP filed its Motion on February 5, 2024, without the information required by Rule AT-3.

On January 5, 2024, counsel for Baylor received a phone call from Josh Borsellino, notifying Baylor that he intended to file a substantially similar motion to Nesenoff & Miltenberg LLP's motion.

To avoid any issue or confusion regarding service going forward, Baylor respectfully requests that the Court order Nesenoff & Miltenberg LLP to file the information required under Rule AT-3 prior to granting Nesenoff & Miltenberg LLP's Motion or any motion to withdraw filed by Borsellino, P.C. Baylor does not object to any such information being filed under seal. Baylor does not oppose the extension of deadlines sought in the Motion and does not oppose Nesenoff & Miltenberg LLP's or Borsellino, P.C.'s withdrawal as counsel for Plaintiff, provided that this information is filed before either firm is permitted to withdraw.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been forwarded to all counsel of record herein by way of:

- ☐ U.S. Mail, First Class
- ☐ Certified Mail
- ☐ Facsimile
- ☐ Federal Express
- ☐ Hand Delivery
- ☒ ECF (electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants)

on this 5th day of February, 2024, to wit:

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